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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-970

Multilayered Wood Flooring from the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Determination and Amended Final Determination of the Antidumping Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On April 23, 2014, the United States Court of International Trade (“CIT”) the CIT granted Plaintiffs<sup>1</sup> consent motion for severance and entered final judgment in *Baroque Timber Industries (Zhongshan) Company, Limited, et. al. v. United States* and *Zhejiang Layo Wood Industry Co., Ltd. v. United States*.<sup>2</sup> The CIT affirmed the Department of Commerce’s (the “Department”) final determination of sales at less than fair value, as modified by the final results of redetermination with respect to Layo Wood and the Samling Group pursuant to court order, in *Baroque Timber Industries (Zhongshan) Company, Limited, et. al. v. United States*,<sup>3</sup> and affirmed that the antidumping margins for Layo Wood and the Samling Group are *de minimis*.

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (“CAFC”) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (“*Timken*”), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (“*Diamond Sawblades*”), the Department is notifying the public that the final judgment in this

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<sup>1</sup> Zhejiang Layo Wood Industry Co. Ltd. (“Layo Wood”) and Baroque Timber Industries (Zhongshan) Co., Ltd., Riverside Plywood Corporation, Samling Elegant Living Trading (Labuan) Limited, Samling Global USA, Inc., Samling Riverside Co., Ltd., and Suzhou Times Flooring Co., Ltd. (collectively, “the Samling Group”)

<sup>2</sup> These cases were formerly consolidated under Consol. Court No. 12-00007, *Baroque Timber Industries (Zhongshan) Company, Limited, et. al. v. United States*.

<sup>3</sup> See Final Results of Redetermination Pursuant to Court Order, Court No. 12-00007, dated November 14, 2013, available at: <http://enforcement.trade.gov/remands/index.htm> (“MLWF Final Remand Redetermination”).

case is not in harmony with the Department's *MLWF Amended Final Determination*<sup>4</sup> and is amending the final results with respect to Layo Wood and the Samling Group.

EFFECTIVE DATE: (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Charles Riggle, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0650.

SUPPLEMENTARY INFORMATION:

#### Background

On July 31, 2013, the CIT granted the Department's motion for voluntary remand in *Baroque Timber Industries (Zhongshan) Company, Limited, et. al. v. United States* to 1) reconsider the surrogate value ("SV") determination for Layo Wood's plywood input; 2) reconsider the proper United States Harmonized Tariff Schedule ("HTS") category for valuing the Samling Group's high-density fiberboard ("HDF") input; 3) reconsider the SV applied to Layo Wood's core veneer input; 4) provide further explanation or reconsideration of the SV calculation of Layo Wood's HDF input; 5) provide further explanation or reconsideration of its reasons for not adjusting Layo Wood's brokerage and handling SV to account for costs associated with letter of credit; and 6) reconsider its application of the targeted dumping method in light of changes to SVs and in conformity with current standards, with the understanding that reconsideration of the above issues may result in the statutory test for application of the targeted dumping method no longer being met with respect to the *MLWF Amended Final Determination*. Pursuant to the CIT's remand order, the Department made the following revisions: (1) valued Layo Wood's plywood input with a SV reflecting plywood thicknesses of 6.35 millimeters

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<sup>4</sup> See *Multilayered Wood Flooring From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011) ("*MLWF Amended Final Determination*").

(“mm”) and 12.7 mm; (2) valued the Samling Group’s HDF with Philippine HTS category 4411.11 (“fiberboard greater than 0.8 G/Cm<sup>3</sup>, not worked or surface covered”); (3) valued Layo Wood’s core veneer input with 2009 data reported by the Global Trade Atlas (“GTA”) for Philippine HTS category 4408.9090.06 (“sheets for plywood”); (4) provided further explanation for the Department’s determination to continue converting the SV for Layo Wood’s HDF using the average density of HDF used by Layo Wood; (5) adjusted Layo Wood’s B&H SV to remove letter of credit costs not incurred by Layo Wood; and (6) calculated Layo Wood’s and the Samling Group’s dumping margins using an average-to-average comparison method, rather than the average-to-transaction comparison method.

#### Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Act, the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s April 23, 2014 final judgment affirming the MLWF Final Remand Redetermination with respect to Layo Wood and the Samling Group constitutes a final decision of that court that is not in harmony with the *MLWF Amended Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken*. The CIT’s April 23, 2014 final judgments also ordered that subject entries enjoined in Consol. Court No. 12-00007 with respect to Layo Wood and the Samling Group be liquidated in accordance with the final court decision, as provided for in section 516A(e) of the Act. Accordingly, the Department will issue instructions to U.S. Customs and Border Protection (“CBP”) that no margin exists with respect to Layo Wood and the Samling Group, and direct CBP to terminate the suspension of liquidation for shipments of multilayered

wood flooring from the People's Republic of China entered, or withdrawn from warehouse, for consumption, produced and exported by Layo Wood and the Samling Group, on or after May 26, 2011, and to release any bond or other security, and refund any cash deposit collected for such entries.

Amended Final Determination

There is now a final court decision with respect to the *MLWF Amended Final Determination* with respect to Layo Wood and the Samling Group. Accordingly, the Department is amending the amended final less than fair value determination and the revised weighted-average dumping margins for these companies is as follows:

Exporter	Producer	Weighted-Average Dumping Margin (percent)
Zhejiang Layo Wood Industry Co., Ltd. (A-570-970-001)	Zhejiang Layo Wood Industry Co., Ltd.	0.00
The Samling Group <sup>5</sup> (A-570-970-002)	The Samling Group	0.00

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: April 28, 2014.

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Paul Piquado,  
Assistant Secretary,  
for Enforcement and Compliance.

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<sup>5</sup> The Samling Group consists of the following companies: Baroque Timber Industries (Zhongshan) Co., Ltd, Riverside Plywood Corporation, Samling Elegant Living Trading (Labuan) Limited, Samling Riverside Co., Ltd, and Suzhou Times Flooring Co., Ltd.

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